

MADRAS RECORD OFFICE.

Government of Madras.

Political **DEPARTMENT.**

G.O. No.	124	Press ~~Mis~~
Dated	9-2.	1918

Not to be folded or roughly handled

To
The Right Honourable
George Francis Robert Lord Harris
Governor in Council of
Fort Saint George

The humble Petition of
Krishnajee Cusoe Mudda
Inhabitant of Tanjore.

Respectfully Sheweth,

That your Petitioner not having
received any answer to his former Peti-
tion has concluded that your Lordship
in Council declines to declare the
late Rajahs of Tanjore Courts to have
no legal existence.

2. He now prays that your Lordship
will take into consideration the circum-
stances of his case, and issue orders
to the Acting Circle to desist from
further harassing your Petitioner.

3. Assuming that the Court has
a legal existence, as for the purpose
of this Petition your Petitioner is bound
to do, and that therefore your Lordship
Government has no power to stop
the process of the Court, he can yet
lay before your Lordship such facts

as he earnestly trusts will satisfy your Lordship both that you have the power to prohibit the Plaintiff pursuing his suit, and that it is proper that such prohibition should issue in the present case.

4. Your Petitioner forwards copy of the Plaint, of his motions, proposed answer, Petition to the Acting Resident, and that Officer's reply: whence, with such repetition, the facts on which he relies will appear, as well as the inability of the Acting Resident to interpose.

5. The facts on which this case arises are familiar to your Lordship's Government. The Supreme Court in the suit lately instituted to recover the value of the Bank notes in question, threw out a strong opinion that they were the property of the late Rajah: and the Records of your Lordship's Government show that the Government of Madras and the East India Company have always recognized the Rajah's claim and been ready and willing to pay him the amount on his receipt and indemnity.

6. On the death of the late Rajah this

this property must either have passed to the East India Company as public or state property, or to the heir of the Rajah as part of his private personal estate.

7. If the latter, it is beyond Contrition that the Circle has no power to sue your Petitioner for the amount.

8. If the former, the property is already in possession of the East India Company, and it is a grave hardship that your Petitioner should be subjected to a suit to recover from him that which is already in the owner's own possession.

9. The Acting Circle in no way represents the late Rajah. If he is suing, it must be on behalf of, & for the benefit of the East India Company: since the death of the Rajah, it is presumed that the Acting Circle must be amenable to some superior authority, and that that authority can be no other than your Lordship's Government. It is therefore within your Lordship's power, as your Petitioner humbly conceives, to interpose, and direct that the Acting ^{Circle} shall forbear to prosecute a claim manifestly ^{unlawful}

without foundation, and to recover for the East India Company property which it already has in its own keeping, possession, and undivided Control.

10. If the property is not that of the Company it must at the moment of the Rajah's demise have passed to his heir, and so again the Acting Circle can have no right to sue for it: but if by any possible combination of circumstances it could be the Rajah's at the moment of death brought, then your Petitioner desires to refer your Lordship to the whole of the records of Government connected with case, to show that the money is due by the East India Company and not by your Petitioner.

11 Your Petitioner would not venture to intrude upon your Lordship's time and attention if he felt that he had the faintest chance of a fair trial before these practically irresponsible Courts. Harassed as he would be by the continuation of the proceedings

proceedings, he would cheerfully submit with the decision of his case to the tribunal which had cognizance of the suit: but the pleadings in this matter, independent of all other circumstances which might rest on your Petitioner's bare assertion, show that this is hopeless. He has had no decision pronounced upon his motion objecting to the jurisdiction of the Court. His answer, respectfully couched, and properly framed, has been rejected, because he is unwilling to forego perfectly legitimate topics of defence: and he now throws himself upon your Lordship's consideration to determine whether your Lordship's Government has not power to put a stop to further prosecution by the Plaintiff of this suit, and whether the circumstances of the case do not render the exercise of such a power, just, and expedient, and he prays that your Lordship will issue the necessary orders to the Acting Circle to refrain from proceeding against your Petitioner. And your Petitioner shall ever pray

He -

James Gordon

Jaipore
31st January 1857.

Sept 20th
Sept 18 1837 Paris
25

Copy to the Resident at Tanjore
9th Feb 1857 Pt 124.

Pt 1857 D
In W 111

Before Most High Sirey of H. Highness.

Plaintiff

Arilajunda Row Annada Row Jadava, conducting the duties of the Serkale of H. Highness's Palace

Tahsil

Goundaranna Naig.

Defendant

Kristnagar Cressa Pundit residing in the lane of Annapoochy Naig in the Fort of Tanjore

The case brought against the defendant is for the recovery of /8,000/ rupees due on the note of Madras Bank.

1st When Rainarow Jadava had been to Jalana in the year 1834 Sada-
sees Row the then Serkale, in order to remit the amount of /14,000/ rupees for the Jadava Rows expenses purchased Bank notes for the same amount, from Nayanna Chetty and sent 18 halves of notes for /6,000/ Rs on the 29th July in the same year, & the other 18 halves were sent on the 30th Instant; but the 18 halves, sent on the 29th July, safely reached the said Jadava Row and among 18 halves of notes which were sent on the 30th Instant two halves of notes were missing one for /3,000/ Rs numbered

numbered 2768 and the other for 1000
Rupees number 3869 on which the
said Jadava informed the matter
to the Officers and reported the same
to the Palace with the enclosure,
wherein the said two halves of
notes were missing.

2nd An enquiry had been made
by the Post Officer and Magistrate
on the matter and the two halves
of notes were not found - Captain
Douglas, the then Resident has
informed the Circumstances to the
Officers of the Madras Bank on
the 12th December of the same year.

3rd After the said Jadava's
return, who was then acting as a
Serkele had taken the account
and the two halves of note and the
remaining sum from the said
Jadava's groom named
Govindannajee and retained the
2 halves of notes for his own use
and delivered the rest account &c.
in the Treasury of His Highness.
After Nayana Chetty and his sons
were died, the defendant executed
a Takalut nama to Lechunaymoray
Nana Chetty of Combarom in
order

order to obtain the sum of the said
two halves of notes on which this
matter was discovered to the Palace.
4th In the enquiry made on the sub-
ject by the Resident in 1849, It was
determined that the amount of the
notes belongs to the Palace and that
the defendant has no claim to it
and the Defendant has also confessed
that the amount does not belong
to him and he gave up the said
2 halves of notes to Soobramany
Chetty son of Nayana Chetty for
the balance due to him from the
Palace and he executed the Taka-
lut nama for the benefit of
Palsamany Umash the widow
of the said Soobramany Chetty.
5th The Soobramany Chetty has
petitioned the Palace to pay over to
him the balance standing in his
favour in the accounts of the Pa-
lace and accordingly the account
was settled and the balance had
been paid and the receipt has
been taken for it from him,
there is no mention of the 2 halves
of the notes in the said account.
6th It is the duty of the Court to
punish

perish the defendant as he deserves
for his having fraudulently endeavoured to usurp the amount
of the said notes after the demise
of the said Payama Chetty and
of his sons.

7th The amount of 4,000 Rupees
of the notes and the interest thereof
is 4,000 Rupees. This sum including
the Principal and the interest
amounted 8,000 Rupees are due
to the Cirkar from the defendant.
Having no leisure on account
of some earnest business to
purchase stamp paper this suit
is filed on plain paper & I am
ready to pay over the stamp
fees.

[Signed] Govinda Rama Raig

Mysore
20th November 1856.

[A true Copy]
[Signature]

Before the Woodruffa Suley on original
Court of St. Highness.

The motion of Syatoo ager
agent of the defendant in
Suit No 314 of the year of
Nala.

1st The defendant on signing the
summons issued in the case brought
against him by the Plaintiff moved
the Court that the Plaintiff has no
claim on him at all and stated
his objections to the jurisdiction and
legal existence of the Court through
his Vakel duly empowered on the
1st of December 1856, no decision has
been passed with reference to this
motion by the Court; which has
served a notice on the defendant
to file in his answer within 8
days that is to say from 21st to 28th
January 1857.

2nd Renewing his protest against
the legal existence of the Court, the
defendant states that it is only
the East India Company that are
bound to pay the sum sued for
but not the defendant. The East
India Company has promised by its
bank

914 of 1857 Jan 25
20th 1857
In 1857

bank notes to pay the party who can prove his title to them: and the Plaintiff is bound to sue the Company, if any body for the Amount. But the money, if it belonged to the Rajah, now former part of the private estate of his senior widow Her Highness Kammachee Bhoje who is alone entitled to sue for and recover the same; and the Plaintiff has no right to sue any body. He is not the legal representative of the late Rajah. He has not obtained a certificate under regulation Xth of 1841. no one is bound to pay any debt due to him; and he has no more right to institute a suit to recover any estate belonging to him than the commonest Cooly in the Fort. The injunction of the Supreme Court at Madras has forbidden the Plaintiff and all others to intermeddle with the property of the late Rajah. The suit has been instituted out of revenge and spite.

3rd In the rules prescribed for the proceedings of the courts on the 5th January 1813 it is stated that if both the parties concerned in a suit, were inhabitants of the Fort.

Fort, but the property in dispute without it, the Court should proceed in such cases either on the permission of the Honorable Company or on the consent of the parties and in the present case the property in dispute being in the possession of the East India Company which is only bound to pay the Amount. The suit now filed against me is inadmissible.

4th In the 31st Column, it is stated that the Judges should carry on their duties without listening to any recommendation and proceed in every case presented to them in awe of the Almighty of which duty I have beg to remind you.

5th Besides I declare that the Defendant has no reason to pay even a penny to the Plaintiff.

6th The Documents which can prove my declarations are to be obtained from the Presidency, Collector, Government's Office, and from the Supreme Court at Madras which can only be produced gradually.

gradually in obtaining them and
 this reason will, I hope, satisfac-
 -torily account for the non-pro-
 -duction of the documents at
 present - The accompanying is
 the list of witnesses to be examined
 on my behalf which I beg to file
 in Court.

(Signed) Dyaktoorayen
Fakel

(A true Copy)

~~Emm...~~

Subscribed 20th Oct 1857
 Dyaktoorayen Fakel

Dec 1857
 In the Court

Before Moodrita Sahay of H. Highness.

The motion presented by Sy-
 -atoorayen Fakel in behalf
 of Kuthajer Eural Pindit
 Defendant in suit No. 314
 of the year of Etala.

It is stated in the Book called
 Smerty Chundrace by the rules of
 which all the proceedings of the
 Rajah's Court, are conducted that
 the Rajah is the Chief member or
 head of the Court, which therefore
 can have no legal existence in the
 absence of the Rajah just the same
 manner as the body without head,
 cannot be said to be alive and
 will not work at all while the
 Raj is without a Rajah, all his
 Courts have no legal existence to
 exercise any authority - Under these
 circumstances stated of law, the
 late Rajah having died on the 29th
 October it is quite illegal to hold a
 Court under his authority and to
 write on the head of every paper. By
 Maharajah Sahib's Court to exercise
 any authority under the sanction of
 such a name and to investigate
 every

every cause.

2nd As for the Complaint of the said No. filed by Govindarama Naig Takeel on behalf of the Acting Serkhele Nerlagunda Row Amunda Row Jadova, on plain paper for recovering from me the amount of /8,000/ eight thousand rupees principal and interest inclusive due on a Bank note from me to the Palace, I beg to observe that the said Nerlagunda Row Amunda Row Jadova was not appointed by the late Rajah, as Acting Serkhele and has no connection with the Rajah. He has of course no reason to complain against me and is Complaint is contrary to the 2nd Column of the law established in the year of Taroonah.

3rd The Defendant understands that some new rules have been made in the month of January 1856. after H. Highness' demise and that it is inconsistent with the rules to file a Plaint preferred on plain paper and for this reason alone contents that the Plaintiffs suit is inadmissible.

4th The Defendant justly apprehends as

as the said Plaint which is on plain paper being filed in a Court which has fallen under the influence of the Plaintiff, it may be prepared a new one and filed into the Court if the Plaintiff thinks it to be necessary. I therefore pray that the Court may at once dismiss the suit as in addition to this reason the said Jadova Row has no right to claim the Amount.

5th And I further pray that the Court may be pleased to endorse on this application, stating in what relation the said Jadova stood with the late Rajah, so as to authorize him and sue me in the Court consistently with the law. In case the plaint be accepted by the Court against law and justice on the persuasion of the plaintiff I beg it will provide me with a copy of the plaint under the signature of the head officer of the Court.

/Signed/ Hyatoojee
Takeel

Mysore
1st December 1856.

/A true Copy/

~~Hyatoojee~~

To

H. D. Phillips Esq^r

Resident at Tanjore.

The humble Petition of
Kristnagar Lucar Pundit
Residing at Tanjore.

Respectfully sheweth,

That your Petitioner is compelled to appeal to your Honour summarily against the decision of the so styled Court of the late Rajah which has refused to receive and file the answer herewith submitted. This is the last day for filing his answer and he therefore craves an immediate reply since he well knows that he will otherwise be precluded from making any defence to the suit brought against him.

2. He conceives that there must be an appeal somewhere. He has already in the institution of the suit petitioned the Government to interpose, but the Government has not condescended to favour him with any notice. To the Resident he conceives then his appeal must be, or otherwise the Court will be Supreme.

3. Into the preposterous absurdity of

Edmund 20 Dec 1837
No 4 of 1837 Para 25.

Edmund 20 Dec 1837
No 4 of 1837

of holding him responsible for a debt
contracted by the East India Com-
pany on two of their own Bank
notes, and which the record of your
office show they are prepared to pay
on a receipt duly given, your Petitioner
will not now enter, since the suit
is not yet ripe for such a question.

4. But he would point out that
he by the accompanying motion took
objection to the jurisdiction of the
Court. He denied its legal existence,
and conceived he is entitled to a de-
cision on that point; but the Court
has taken no notice of his motion
and called upon him to answer.

5. The orders issued by this Court
are at its option verbal he is unable
to forward any written record of the
refusal to file his answer.

6. The grounds as he learns from
his Counsel are three fold. First he
is not to make any allusion to
the former motion; secondly he is
not to refer to the Disjunction; thirdly
he is to expunge the passage referring
to Act XX of 1841.

7. To you, Sir, as one long practiced
in the procedure of Courts of Justice,
he appeals to say whether Courts may
thus act legitimate topics of defence
from

from under the feet of suitors: whether
so long as the pleadings are couched
in respectful language a suitor
may not legitimately raise any
points he pleases for the decision
of the Court, and whether Courts
may frame their suitors pleadings
to their own will and pleasure.

8. He would shortly point out
the bearing of the those points objected
to.

9. First he is bound again to pro-
test against the jurisdiction of the
Court in his present pleading, lest
it should hereafter be used against
him as an evidence of his submission
or waiver of the point. Es-
pecially as his former motion has
not received any notice or elicited
any decision. This, your Petitioner
confidently submits, every day's prac-
tice in all Courts for a Defendant
thus to preface his answer by
an objection to the jurisdiction
wherever he thinks ~~he can~~ it
can be validly maintained.

10. Secondly. It is not pretended
that the Disjunction of the Supreme
Court has any operation upon the
proceedings of the Tanjore Court;
nor is it so put forward; but if,
as your Petitioner is prepared to
maintain

maintain these notes if they formed part of the Rajah's estate, have by his death passed to his heir, then it becomes a very serious question whether the present plaintiff, whom the injunction does affect, has not been or may not be guilty of a breach of that injunction by taking upon himself in any way to intermeddle with such private estates: and this ^{is} a point on which this Court may fairly be called on to decide.

11. Thirdly, the Court says it is not bound by the Regulations of the Company. According to its present practice it appears on truth to be guided by or subservient to or dependent on any law whatever: but your Petitioner is the Defendant in the suit; he is not resident in the Fort and has not been for years; and the case must be decided according to the law of the Defendant. That law is the law which obtains in the Company's territories, and he is not bound to pay any debt except to some person who has clothed himself with a certificate.

12. Your Petitioner prays therefore that

that the Court may be directed to receive his answer. &

13. He would further bring to your notice that as he is not resident in the Fort, this suit according to the treaties cannot be brought in the Fort Courts in the first instance, or without its being referred to by the Resident. If your honour, is of this opinion, your Petitioner will be prepared to appear before you personally or by Vakeel for the purpose of satisfying you that there is not the slightest pretext or ground in law or equity or reason or sense for bringing this suit against him: and that it is not one which you would deem it fitting to refer.

14. The simple truth is that your Petitioner is obnoxious to the Acting Circle, the Presidency Sheristadar and those under whose influence the Court has fallen since the Rajah's death. He has unfortunately for himself a house within the Fort, and the object of this suit is to harass him and deprive him of his property.

15. The two points are too clear for argument: first that this money is

is due by the Company which is perfectly prepared to pay it, and that it is not due by your Petitioner.

16. Secondly that the present Plaintiff has no right or title whatever to sue your Petitioner, as he in no way represents the late Rajah, or his heir. If the property belongs to the Raj it has passed to the Company which already possesses it; if it belongs to the Rajah's heir, the present Plaintiff has no privity with that heir, is ~~not~~ ^{not} ~~her~~ ^{not} against to sue on a locus standi for suits.

17. If your honour should think that it is scandalous that your Petitioner should be further harassed by such a suit, he would pray you to consider whether this suit is not altogether defective as having been instituted without any reference from the Resident one of the parties living out of the Fort.

And your Petitioner shall ever pray. &c.

(Signed) Kristnages Cusae
Paradit

(Attest Copy)

Emmanuel Wright

Jayore

28th January 1857.

Ld. Enclaves 20 Feb 7
No 4 p 237 Para 25

28th Jan

PD 1857
En No 411

The address presented on the 28th in-
-stant to the Acting Resident, by Krishna
-jee Cusee Bundit, calls in question
the jurisdiction over the Petitioner,
of the late Rajah's Court in the Fort
of Tanjore and impugns that Court's
proceedings in an action for the recovery
of certain monies alleged to be due,
which has been entered against Pe-
-titioner by the Acting Sir Kale of the
Rajah's establishment.

The Acting Resident observes that
the Court in which the suit in question
has been brought, exercises at the pre-
-sent time all the powers originally
conferred on it; and the Acting Resident
does not find that in respect of the
suit in regular progress through such
a Court, he professes those powers of
interference which the Petitioner is
desirous should now be exercised
on his behalf.

/signed/ H D Phillips
Acting Resident

Tanjore
29th January 1857.

/A true copy/

महाराज

England 26 Feb 1854
Para 25

Feb 1854
In 1854

From

Kristhjee Cusee Pandit.

To

J. Pycroft Esq^r

Chief Secretary to Government.

Fort St George

Sir

I have the honour to forward
you the accompanying Petition
with its enclosures, which I shall
thank you to lay before the Right
Honble. the Governor in Council
for his consideration at your ear-
liest convenience.

I am

Sir

Your most

Obedient servant.

Tanjore

31st January 1857.

[Signature]

